

**LAKE OSWEGO
REDEVELOPMENT AGENCY**

**RELOCATION CLAIMS PROCESSING
AND HEARING RULES OF PROCEDURE**

Adopted by the Lake Oswego Redevelopment Agency
March 6, 2012

RELOCATION CLAIMS PROCESSING AND HEARING RULES OF PROCEDURE

LAKE OSWEGO REDEVELOPMENT AGENCY

1. **Application.** These rules replace the previously existing Relocation Claims Processing and Hearing Rules of Procedure, and shall be applied prospectively to all pending and future relocation claims.
2. **Terminology.** References to “Rules” shall mean these Relocation Claims Processing and Hearing Rules of Procedure. References to “Agency” shall mean the Lake Oswego Redevelopment Agency. References to “Staff” shall mean the staff of the Lake Oswego Redevelopment Agency or contractors of the Agency.
3. **Amount of Award.** Determination of the amount of the relocation award shall be made pursuant to the Relocation Policies and Procedures of the Lake Oswego Redevelopment Agency as they may be amended from time to time, unless a project requiring the relocation of occupants is federally funded, and as a condition of such funding it is required that federal regulations must be applied, in which case such federal regulations shall apply.
4. **Procedure for Determination of Amount of Award.** The procedure for the determination of the amount of all relocation awards shall be governed by these Rules, as they may be amended from time to time, unless a project or program requiring the relocation of occupants is federally funded, and as a condition of such funding it is required that federal relocation regulations must be applied, in which case such federal regulations shall apply.
5. **Staff Decision.** Designated Staff shall be responsible for determining eligibility of all claims in the first instance.
 - 5.1 Claimants shall submit all claims for payment within the time periods required by the applicable relocation policies and procedures.
 - 5.2 Staff may require such documentation as it determines is necessary to substantiate the claim.
 - 5.3 If the claim is disapproved for any reason the Agency shall inform the claimant in writing of the reasons for denial of the claim.
 - 5.4 If the claimant is dissatisfied, the claimant may, within sixty (60) days of the initial decision of Staff, provide additional information for Staff review. If the claim remains disapproved, the Agency will inform the claimant in writing of the reasons for denial. Failure to provide additional information shall not preclude further review.
6. **Review by Executive Director.** Any claimant who, after receiving a review and evaluation of a relocation claim by Staff, is dissatisfied with the determination of eligibility for or the amount of

the payment may have the claim reviewed and reconsidered by the Executive Director of the Agency, or his/her designee, in accordance with the procedures of this section.

- 6.1** A claimant shall submit a request for Executive Director review by filing a written request for review with the Executive Director within sixty (60) days of the date of the Staff decision.
 - 6.2** A claimant requesting Executive Director review shall submit all written material in support of claimant's request with the request for review. The Executive Director in his/her sole discretion may refuse to consider materials not submitted with the request for review.
 - 6.3** At the same time that a claimant requests Executive Director review, the claimant may request the opportunity to make an informal oral presentation in support of the request. If a request is made, the Executive Director shall provide an opportunity to make the presentation within thirty (30) days of the date of the request or at such later date that is mutually acceptable to the claimant and the Executive Director. Unless extended by the Executive Director in his or her sole discretion, the oral presentation shall be limited to a maximum of one hour.
 - 6.4** The Executive Director shall provide a written decision within thirty (30) days following the date of receipt of the request for review, or, if an oral presentation occurs, within thirty (30) days following the date of the presentation.
 - 6.5** The decision of the Executive Director shall be served on the claimant personally, or by registered or certified mail, and shall include a notice to the claimant, which shall include:
 - 6.5.1** A statement of the claimant's right to a contested case hearing.
 - 6.5.2** A statement of the authority and jurisdiction under which the hearing would be held.
 - 6.5.3** A statement that the claimant may be represented by counsel at the claimant's own expense at the hearing.
 - 6.5.4** A statement that if the claimant desires a contested case hearing, the Executive Director of the Agency must be notified in writing within 90 days from the date of mailing of the notice.
 - 6.5.5** A statement that if the claimant does not request a contested case hearing within ninety (90) days from the date of mailing of the notice, the decision of the Executive Director shall be final.
- 7. Contested Cases.** A contested case exists whenever a claimant requests a review of the decision of the Executive Director.

7.1 Notice of Contested Case Hearing. The Agency shall give notice of a Contested Case Hearing to all parties personally or by mail.

7.1.1 The notice shall include:

- A.** A statement of the time and place of the hearing.
- B.** A statement of the authority and jurisdiction under which the hearing is to be held.
- C.** A reference to the particular sections of the statutes, rules, policies or procedures involved.
- D.** A short and plain statement of the matters asserted.
- E.** A statement that the claimant may be represented by counsel at the claimant's expense at the hearing and that legal aid organizations may be able to assist a claimant with limited financial resources.
- F.** A statement that the claimant has the right to respond to all issues properly before the hearing panel and to present evidence and witnesses on those issues.
- G.** A statement describing the opportunity for obtaining relevant documents from the Agency pursuant to public records requests, and the opportunity to petition for subpoenas or depositions pursuant to these Rules.
- H.** A general description of the hearing procedure including the order of presentation of evidence, what kinds of evidence are admissible, whether objections may be made to the introduction of evidence and what kind of objections may be made.
- I.** A description of the appeal process from the determination or order of the Agency.

7.1.2 The failure of the Agency to give notice of any item specified in Section 7.1.1. does not invalidate any determination or order of the Agency unless upon an appeal from or review of the determination or order a court finds that the failure affects the substantial rights of the complainant. .

7.1.3 The Agency shall give notice of the hearing no later than thirty (30) days after receipt of a request for a hearing and shall set the hearing no earlier than thirty (30) days after the service of notice.

7.1.4 The notice shall be served personally or by registered or certified mail.

- 7.1.5** Service of all papers or notices by mail shall be completed upon mailing. All papers or notices issued or submitted by a party shall be served upon all adverse parties.
- 7.2** **Failure to Appear.** When a claimant that has requested and been given an opportunity for a hearing fails to appear at the specified time and place, the Agency shall enter an order affirming the Agency action.
- 7.3** **Subpoenas and Depositions.** The Agency shall issue subpoenas in hearings on contested cases on a showing of need and general relevancy. A party may petition the Agency for an order that the testimony of a material witness be taken by deposition. Fees and mileage are to be paid by the requesting party in the amounts provided in ORS 44.415(1).
- 7.4** **Hearings.** The hearing shall be before a hearing panel composed of three persons selected by the Agency Chair in his or her sole discretion. The hearing panel shall select one of its members to serve as the presiding officer for the hearing.
- 7.4.1** Unless altered at the discretion of the presiding officer, the hearing shall be conducted in the following order:
- A.** Statement and evidence of the Agency in support of its action.
 - B.** Statement and evidence of claimant disputing Agency action.
 - C.** Rebuttal statement and evidence of the Agency.
- 7.4.2** Hearing panel members, the claimant or its attorney, and the Agency or its attorney shall have the right to examine or cross-examine any witnesses.
- 7.4.3** The presiding officer may set reasonable time limits for presentations and may exclude or limit cumulative, repetitious, irrelevant or immaterial matter.
- 7.4.4** Exhibits shall be marked, identifying the party offering the exhibits. The exhibits shall be preserved by the Agency as part of the record of the proceedings.
- 7.4.5** The parties shall be given the opportunity to file exceptions and present arguments to the hearings panel.
- 7.4.6** The parties may present proposed findings of fact and conclusions of law to the presiding officer within such period of time as the presiding officer may set.
- 7.5** **Evidentiary Rules.** Evidence of a type commonly relied upon by reasonably prudent persons in conduct of their serious affairs shall be admissible.
- 7.5.1** Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.

- 7.5.2** All offered evidence, not objected to, will be received by the presiding officer subject to his/her authority to exclude irrelevant, immaterial, or unduly repetitious matter.
- 7.5.3** Evidence objected to may be received by the presiding officer with rulings on its admissibility or exclusion to be made at the time a final order is issued.
- 7.6 Final Orders on Contested Cases and Notification.** Final orders on contested cases shall be in writing and include the following
- A.** Rulings on admissibility of offered evidence.
 - B.** Findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the Agency's order.
 - C.** Order – the action taken by the Agency as a result of the findings of fact and conclusions of law.
- 7.7 Copy of Order.** Parties to contested cases and their attorneys of record shall be served with a copy of the final order personally or by mail. Parties shall be notified of their right to judicial review of the order.
- 7.8 Reconsideration and Rehearing.** A party may file a petition for reconsideration or rehearing of a final order within 60 days after the order is served, by serving a request for reconsideration or rehearing with the presiding officer.
- 7.8.1** The petition shall set forth the specific ground or grounds for requesting the reconsideration or rehearing. The petition may be supported by a written argument.
- 7.8.2** The hearing panel may grant a reconsideration petition if sufficient reason therefore is made to appear. If the petition is granted, an amended order shall be entered.
- 7.8.3** The presiding officer may grant a rehearing petition if sufficient reason therefore is made to appear. The rehearing before the hearing panel may be limited by the presiding officer to specific matters. If a rehearing is held, an amended order shall be entered.
- 7.8.4** If the presiding officer does not act on a petition within the 60th day following the date the petition was filed, the petition shall be deemed denied.
- 7.9. Record.** The record in the contested case shall include:

- 7.9.1 All pleadings, motions and intermediate rulings.
- 7.9.2 Evidence received or considered.
- 7.9.3 Stipulations.
- 7.9.4 A statement of matters officially noticed.
- 7.9.5 Questions and offers of proof, objections and rulings thereon.
- 7.9.6 Any proposed findings and exceptions.
- 7.9.7 Any proposed, intermediate, or final order.
- 7.9.8 A verbatim oral, written or mechanical record of all motions, rulings and testimony. The record need not be transcribed unless requested for purposes of rehearing or court review. The Agency may charge the party requesting transcription the cost of a copy of transcription, unless the party files an appropriate affidavit of indigency.

- 8. **Judicial Review.** After exhaustion of these administrative remedies, the claimant may seek judicial review as provided by ORS 183.480.
- 9. **Right to Counsel.** A claimant has a right to representation by counsel at claimant's expense at any and all stages of the relocation claim procedure.